

417



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
 Address: COMMISSIONER FOR PATENTS
 P.O. Box 1450
 Alexandria, Virginia 22313-1450
 www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/626,080

07/24/2003

David C. Eby

29618/38939

9963

4743 7590 04/13/2007
 MARSHALL, GERSTEIN & BORUN LLP
 233 S. WACKER DRIVE, SUITE 6300
 SEARS TOWER
 CHICAGO, IL 60606

EXAMINER

QUINN, COLLEEN M

ART UNIT

PAPER NUMBER

3634

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
--	-----------	---------------

3 MONTHS

04/13/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/626,080

Applicant(s)

EBY ET AL.

Examiner

Colleen M. Quinn

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-21, 24, 27, 29 and 30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5-21, 24, 27, 29 and 30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This Final Office action is in response to amendments filed January 29th, 2007, in which claims 5-7, 12, 18 and 24 were amended.

Claim Rejections - 35 USC § 112

Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 6 recites the limitation "vanes". There is insufficient antecedent basis for this limitation in the claim since independent claim 5 has been amended to include only one vane, rather than a plurality of vanes.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 7-11, 24, 27,29 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Ainsworth (US 2,149,489).

Regarding claims 7-11, Ainsworth discloses a file organizer, comprising a plate (2), having a first side (outer edge of file organizer), a second side (distal end of plate), a plurality of flexible (page 1, column 2, lines 44-50), vanes (figure 1) disposed between the two ends, an elastic band (16) releasably attached to the plate on the first (18) and

Art Unit: 3634

second ends (17; figures 1 & 10), wherein the vanes are releasably securable against the plate by disposing the band across the vanes and releasably disposing the band on the catch (page 1, column 1, lines 13- 31), wherein the elastic band comprises two ends, reinforced with a stiff material; such as a metal tube, (Figure 1 & Specification, page 2, column 1, lines 18-23) and is disposed over the catch and stretched over the vanes (Figure 1), wherein the catch (17) is disposed in an opening having an inner edge (holes that shank 19 is inserted into) and the catch comprises notches (edges of 19 and grooved rivets of 17) disposed in the inner edge of the opening.

Regarding claims 24, 27, 29 and 30, Ainsworth discloses a file organizer, comprising two plate portions (2 & 3), divided by a fold line (4), the plates having a first side (outer edges of file organizer) and a second side (inner end of each plate), a plurality of flexible (Specification, page 1, column 2, lines 44-50), vanes (Figure 1), disposed between the two ends and being attached to a respective first end (Figure 1), a handle (18) disposed in the first end, comprising a section of the plate extending outwardly from the plurality of vanes and further including an opening (hole in which handle is disposed) extending through the plate (specification, column, 2, lines 39-43). The file organizer further comprises an elastic band (16) releasably attached (17) to the second end and hooked to a catch (23) on the handle (18) on the first end, allowing the user to carry the file organizer upright to a new location.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5, 6 and 12-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ainsworth (US 2,149,489) in view of Ross (US 1,694,517).

Regarding claims 5, 6 and 12-21, Ainsworth discloses a file organizer comprising a plate (2), having top and bottom sides (figure 2), a first side (outer edge of file organizer), a second side (distal end of plate), a plurality of flexible (page. 1, column 2, lines 44-50), vanes (figure 1), each having at least two tabs (unnumbered tabs between angled cuts 15) for attaching the vanes to the plate, the vanes disposed between the two sides and ends, and an elastic band (16) releasably attached to the plate on the first (18) and second ends (17; figures 1 & 10), wherein the vanes are releasably securable against the plate by disposing the band across the vanes and releasably disposing the band on the catch (page 1, column 1, lines 13- 31). Ainsworth fails to disclose a tongue extending from the vanes and slots that the tabs extend through in the plate.

Ross teaches a file organizer system comprising a plate having a top and bottom (7,8) and side edges, and a plurality of flexible (page 1, lines 80-82) vanes (A), secured to the plate via tabs (5) and a tongue (a), wherein the tabs extend from the vane away from the vane's ends, and are inserted through the plate, and secure themselves against the bottom side (figures 1 and 2), and the tongue remains pressed against the

Art Unit: 3634

top side of the plate (figure 1) inhibiting rotation of the vane, and providing a file organizer system wherein the files can be readily and conveniently removed and replaced for revision or correction (page 1, lines 19-24).

Therefore, it would have been obvious to one of ordinary skill in the art, to secure the vanes of Ainsworth, in the manner taught by Ross, in order to provide a secure connection as well as a file organizer that is easily manipulated and adjusted.

Response to Arguments

Applicant's arguments filed January 29th, 2007, have been considered but are moot in view of the new ground(s) of rejection necessitated by the applicant's amendments.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Klein et al. (US 2,177,071) and Hopen (US 3,292,632).

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

Art Unit: 3634

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Colleen M. Quinn whose telephone number is (571) 272-6289. The examiner can normally be reached on 8:30AM-5:00PM Monday - Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on (571) 272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CMQ
4/5/07


Peter M. Cuomo
Supervisory Patent Examiner
Technology Center 3600